THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 22100 OF 1997

Dated: 12.02.2007

Between:

Shabbeer.

..... Petitioner

Vs.

The A.P.S.R.T.C., rep. by its Vice-Chairman-cum-Managing Director, APSRTC, Musheerabad, Hyderabad and another.

.....Respondents

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.22100 of 1997

ORDER:

The petitioner, who was hitherto engaged on a private bus prior to nationalization, sought absorption into the services of the APSRTC as a driver. Pursuant to the interim orders of this Court, in W.P.M.P.No.15747 of 1992 in W.P.No.12380 of 1992 dated 06.03.1992, the petitioner was informed that the selection committee had considered and interviewed several persons and found that there was no provision to select the petitioner as driver on the displaced vehicle in view of the fact that there was no vacancy. The petitioner was asked to show cause as to why his case for absorption into the Corporation as a Driver

should not be rejected. In reply, the petitioner submitted an explanation on 12.04.1993. Pursuant thereto, the impugned proceedings dated 18.06.1993 were passed, wherein the petitioner's reply was taken note of.

The petitioner, in his reply, had stated that as per the certificate issued by the Labour Officer, Mahaboobnagar, his name was shown at Sl.No.4, and though he was senior to Md. Jahangeer, he was not selected as Driver, whereas, his junior was selected. He requested that his case be considered for absorption as Driver. The Divisional Manager, in his order dated 18.06.1993, held that as per the norms and guidelines issued by the Head Office, Sri Md. Jahangeer was selected as Driver since he qualified to the post of Driver, whereas, the petitioner was not qualified as he failed in the driving test and, hence, his case could not be considered for appointment to the said post.

Sri M. Ganga Rao, learned counsel for the petitioner, points out that while the show cause notice was issued to the petitioner on the ground that there was no vacancy, against the private vehicle in which he was earlier engaged, when he had brought to the notice of the Divisional Manager that he ought to have been appointed in the place of Md. Jahangeer, who was junior to him, the respondent had curiously put forth the ground that the petitioner had failed in the driving test. Sri M. Ganga Rao would submit that the petitioner possesses all the requisite qualifications in this regard and that since the show cause notice did not make any reference to the petitioner not possessing requisite qualifications or of his having failed in the driving test, he was denied reasonable opportunity to submit his explanation in this regard.

I find considerable force in this submission. Since the petitioner was not put on notice, with regards his not possessing the requisite qualifications or of his having failed in the driving test, in the earlier show cause notice dated 18.03.1993, he was denied reasonable opportunity of submitting his reply in this regard. The proceedings of the Divisional Manager dated 18.06.1993, whereby his candidature was rejected, is liable to be set aside on this ground. Ends of justice would be met if the said proceedings is treated as a show cause notice and the petitioner is permitted to submit his explanation thereto. Sri M. Ganga Rao, learned counsel for the petitioner, would submit that the petitioner would submit his explanation within four weeks from the date of receipt of a copy of this order. The respondents shall pass final orders, thereupon, in accordance with law, within three months of receipt of the petitioner's explanation.

The Writ Petition is disposed of accordingly. No costs.

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RAMESH RANGANATHAN, J

Dated: 12.02.2007

sj